NICHOLAS W. BROWN
Attorney General
EMILY C. NELSON
BENJAMIN SEEL
Assistant Attorneys General
Attorney General of Washington
Wing Luke Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
(206) 464-7744

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

STATE OF WASHINGTON, Plaintiff, v. ADAMS COUNTY SHERIFF'S OFFICE, ADAMS COUNTY Defendants.	NO. 2:25-cv-00099-RLP STATE OF WASHINGTON'S MOTION TO REMAND JUNE 10, 2025 With oral argument: 2:00 p.m., Spokane

I. INTRODUCTION

Defendants Adams County and the Adams County Sheriff's Office are entitled to removal only if Washington could have filed its lawsuit in this Court in the first place. It couldn't have. This is a case about enforcement of a state law—the Keep Washington Working Act (KWW)—and state priorities, including how law enforcement agencies should use their limited time and resources. The State brought an action for declaratory judgment against Defendants in state court after they refused to comply with that law. The State pleaded no federal law claims and the Court need not resolve any federal law questions to determine whether Adams County and the Adams County Sheriff's Office violated state law. Remand is warranted because this Court lacks jurisdiction over the State's sole claim.

Nearly a hundred years of precedent establishes that "federal jurisdiction exists only when a federal question is presented on the face of the plaintiff's properly pleaded complaint." *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987) (citing *Gully v. First Nat'l Bank*, 299 U. S. 109, 112–113 (1936)). The law is clear—Defendants cannot create federal court jurisdiction by merely raising a federal defense, "even if the defense is anticipated in the plaintiff's complaint, and even if both parties concede that the federal defense is the only question truly at issue." *Caterpillar*, 482 U.S. at 393. Defendants' numerous federal defenses are therefore beside the point. *Cf.* ECF No. 2 at 23–24 (Answer pleading seven federal affirmative defenses).

ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206-464-7744

Faced with a wall of contrary precedent, Defendants argue instead that this case is exceptional and among the small number of cases that raise a "substantial federal question" that is lurking but nevertheless essential to the case's disposition. That argument also fails. An action brought by a state, in its own courts, seeking a declaration of rights and obligations under state law, does not create a substantial federal question.

Because Defendants' removal is expressly foreclosed by binding precedent, this Court should remand this matter back to Spokane County Superior Court. The Court should also award the AGO its costs and attorney fees because Defendants' removal was unreasonable.

II. FACTUAL AND PROCEDURAL BACKGROUND

On March 10, 2025, the State sued Adams County and the Adams County Sheriff's Office in Spokane County Superior Court after years of attempting to cooperatively resolve Defendants' KWW violations without litigation. ECF No. 1–2 ¶¶ 4.1–4.56 (Complaint). The State brings a single cause of action under Washington's Uniform Declaratory Judgments Act, Wash. Rev. Code § 7.24 (UDJA), and alleges that Defendants violated multiple provisions of KWW. Complaint ¶¶ 5.1–5.11. The State also seeks an injunction prohibiting Defendants "from continuing or engaging in the unlawful conduct" alleged in the State's Complaint. *Id.* ¶ 6.3

Like a host of other state statutes, KWW regulates the scope of enforcement authority, conduct, and activities of state and local law enforcement.

ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206-464-7744

It makes clear that it is not their job to engage in civil immigration enforcement. *See* Wash. Rev. Code § 10.93.160(2). Consequently, they may not use their time or resources to assist in such enforcement, unless expressly required by federal law, or in situations where public safety is directly implicated.

For example, under KWW, local law enforcement cannot use nonpublic information for civil immigration enforcement or share that information for federal immigration purposes. Wash. Rev. Code §§ 10.93.160(4), (5). But these limits do not apply to requests for nonpublic information made in connection with a criminal matter, or to requests for citizenship or immigration status made by federal authorities pursuant to 8 U.S.C. § 1373. *See* Wash. Rev. Code § 43.17.425; 2019 Wash. Sess. Laws, ch. 440, § 8. And KWW further authorizes the Washington State Department of Corrections to share nonpublic information with federal immigration officials for the purpose of detaining and/or deporting individuals convicted of felonies. Wash. Rev. Code § 10.93.160(15).

KWW also recognizes that assisting with civil immigration enforcement can risk constitutional violations and put Washington law enforcement officers themselves at risk of liability. The law therefore prohibits law enforcement from detaining an individual or holding them in custody solely for the purpose of determining their immigration status or solely based on a civil immigration detainer or warrant. Wash. Rev. Code §§ 10.93.160(7), (8). This helps reduce instances in which state and local jurisdictions run afoul of constitutional prohibitions on unreasonable search and seizure, which have cost taxpayers

ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206-464-7744

across the country, including here in Washington, tens of millions of dollars in settlements and legal fees paid to wrongfully detained individuals to resolve civil rights lawsuits against cities and counties.[1] *See Arizona v. United States*, 567 U.S. 387, 413 (2012) ("Detaining individuals solely to verify their immigration status would raise constitutional concerns."). Here again though, KWW in no way

[1] *See* Stipulated Mot. to Dismiss, Ex. A, *Mendoza Garcia v. Okanogan County., et al.*, No. 2:19-CV-00340 (E.D. Wash. Mar. 25, 2020), ECF No. 23 (settlement of $50,000 to resolve claims that County unlawfully held plaintiff in county jail for two days after she had been released on her own recognizance); Notice of Settlement, *Ahumada-Meza v. City of Marysville et al.*, No. 2:19-CV-01165 (W.D. Wash. Nov. 26, 2019), ECF No. 12 (settlement of $85,000 to resolve claims that City unlawfully detained plaintiff overnight pursuant to civil immigration request); Status Report and Notice of Settlement Agreement, Ex. A, *Gomez Maciel v. Coleman and City of Spokane*, No. 2:17-CV-00292 (E.D. Wash. Dec. 13, 2017), ECF No. 20 (settlement of $49,000 to resolve claims that police officer unlawfully arrested the victim of traffic accident in order to turn them over to civil immigration agents); Notice of Settlement, *Rodriguez Macareno v. Thomas, et al.*, No. 2:18-CV-00421 (W.D. Wash. May 28, 2019), ECF No. 83 (settlement of undisclosed amount to resolve claims that Tukwila police officers seized plaintiff—a victim of a crime who sought police assistance—and transferred him to custody of federal immigration authorities); Judgment, *Olivera Silva v. Campbell, et al.*, No. 1:17-CV-03215 (E.D. Wash. Sept. 24, 2018), ECF No. 60 (judgment of $10,000 in damages and $141,986.70 in attorney fees after Yakima County jail continued to detain plaintiff based on immigration detainer); Settlement Agreement, *Sanchez Ochoa v. Campbell, et al.*, No. 1:17-CV-03124 (E.D. Wash. Feb. 6, 2019), ECF No. 129 (settlement of $25,000 to resolve claims that Yakima County unlawfully detained individual based on civil immigration warrants); *City of Bellingham City Council Regular Meeting 7/12/2021 Minutes*, 6 (July 12, 2021), available at: City_Council_Regular_Meeting_2436_Minutes_7_12_2021_7_00_00_PM.pdf (Bellingham City Council authorizing settlement of $100,000 to resolve claims arising from stop in which City of Bellingham police inquired about plaintiff's immigration status and contacted federal immigration authorities, resulting in his arrest and detention).

ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206-464-7744

prohibits state or local law enforcement from complying with criminal warrants issued by a federal judge or magistrate. *See* Wash. Rev. Code § 10.93.160(16)(b).

Further, KWW prohibits local law enforcement from granting federal immigration authorities access to interview a person in their custody about a noncriminal matter unless access is required by state or federal law, a court has ordered that such access be granted, or the individual has consented in writing to be interviewed. Wash. Rev. Code § 10.93.160(6). As with the examples cited above, this prohibition does not apply when federal immigration officials seek to interview someone in local law enforcement custody about a criminal matter. *Id.*

In its Complaint, the State alleges that Defendants repeatedly violated KWW when they (1) shared nonpublic, personal information with federal immigration authorities at least 212 times without any connection to a criminal matter; (2) held individuals based solely on civil immigration detainers and/or warrants from federal immigration officials; (3) allowed federal immigration officials to interview individuals in custody about noncriminal matters without obtaining the individual's consent; and (4) failed to adopt Sheriff's Office policies that align with KWW. Complaint ¶¶ 4.33–4.43. Anticipating the Defendants' defenses that federal immigration law preempts KWW, the State also explained in its Complaint why KWW aligns with federal law. *Id.* ¶¶ 4.1–4.32.

Defendants removed the State's enforcement action on the ground that the Court has federal question jurisdiction under 28 U.S.C. § 1331. They contend the

ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206-464-7744

State's Complaint "alleges a question of federal law on its face," and "raises a substantial federal question." *See* ECF No. 1 ¶ 10 (Notice of Removal); *see also id.* ¶ 16. On April 2, 2025, Defendants filed their Answer to the State's Complaint in this Court, raising ten affirmative defenses and alleging, among other things, that KWW violates the Supremacy Clause because it is preempted and barred under the doctrine of intergovernmental immunity. Answer at 23–24.

III. ARGUMENT

Defendants' removal of the State's declaratory judgment action was improper for two related reasons. First, it is axiomatic that under the well-pleaded complaint rule, raising a federal defense in answer to a complaint does not confer federal question jurisdiction on this Court. This is true even though Defendants claim federal law preempts KWW and excuses their violations of Washington law. Second, Defendants cannot show that the State's claims create a substantial federal question because the Supreme Court has made clear that only a "special and small category" of state law claims nevertheless arise under federal law. *Gunn v. Minton*, 568 U.S. 251, 258 (2013) (quoting *Empire Healthchoice Assurance, Inc. v. McVeigh*, 547 U.S. 677, 699 (2006)). And, try as they might, Defendants cannot shoehorn the State's enforcement of KWW into that "'special and small category' of cases." *Id*. The Supreme Court has consistently held that an action brought by a state in state court seeking an interpretation of state law does not create a substantial federal question, regardless of whether it would require the state court to interpret and apply federal law. This Court should

ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206-464-7744

remand and award the State its attorney fees and costs incurred because of Defendants' unreasonable removal.

A. Under the Well-Pleaded Complaint Rule, Defendants Cannot Remove the State's Case by Asserting Federal Law as a Defense

Because federal courts are courts of limited jurisdiction, they are "presumed to lack jurisdiction in a particular case unless the contrary affirmatively appears." *Stock W., Inc. v. Confederated Tribes of the Colville Rsrv.*, 873 F.2d 1221, 1225 (9th Cir. 1989). In actions removed from state court, the federal court possesses jurisdiction only if it is clear from the face of the complaint that the state court action "could have been filed in federal court" in the first instance. *See Caterpillar*, 482 U.S. at 392. Both the removal and subject matter jurisdiction statutes are strictly construed. *Lake v. Ohana Mil. Cmtys., LLC*, 14 F.4th 993, 1000 (9th Cir. 2021). As the removing parties, Defendants have the burden "to establish that removal is proper and any doubt is resolved against removability." *Id.* (quoting *Luther v. Countrywide Home Loans Servicing LP*, 553 F.3d 1031, 1034 (9th Cir. 2008)) (internal quotation marks omitted).

Defendants assert federal question jurisdiction under 28 U.S.C. § 1331 as their basis for removal. Notice of Removal at 1. That statute provides that federal courts "shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331. A case can "arise under" federal law when federal law creates the cause of action asserted, or when a state law claim raises a "substantial federal question." *Negrete v. City*

ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206-464-7744

of Oakland, 46 F.4th 811, 817 (9th Cir. 2022) (citing *Gunn*, 568 U.S. at 257–58). The "vast bulk of suits that arise under federal law" are those that plead a federal cause of action, while only a "slim category" of state law claims will create a substantial federal question sufficient to establish arising under jurisdiction. *Gunn*, 586 U.S. at 257–58 (citing *Franchise Tax Bd. of State of Cal. v. Constr. Laborers Vacation Tr. for S. Cal.*, 463 U.S. 1, 9 (1983)). In either scenario, the "right or immunity created by the Constitution or laws of the United States must be an element, and an essential one, of the plaintiff's cause of action." *Franchise Tax Bd.*, 463 U.S. at 10–11 (quoting *Gully*, 299 U.S. at 112) (internal quotation marks omitted).

Federal question jurisdiction "is based only on the allegations in the plaintiff's 'well-pleaded complaint'—not on any issue the defendant may raise." *Royal Canin U.S.A., Inc. v. Wullschleger*, 604 U.S. 22, 26 (2025) (quoting *Franchise Tax Bd.* 463 U.S. at 9–10). For this reason, a state action "may *not* be removed to federal court on the basis of a federal defense, including the defense of pre-emption, even if the defense is anticipated in the plaintiff's complaint, and even if both parties concede that the federal defense is the only question truly at issue." *Caterpillar*, 482 U.S. at 393. This rule remains steady even where the complaint responds directly to predicted federal defenses. *See, e.g.*, *Franchise Tax Bd.*, 463 U.S. at 10 ("Thus, a federal court does not have original jurisdiction over a case in which the complaint presents a state-law cause of action, but also asserts that . . . a federal defense the defendant may raise is not sufficient to defeat

ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206-464-7744

the claim[.]") (internal citations omitted); *Cal. Shock Trauma Air Rescue v. State Comp. Ins. Fund*, 636 F.3d 538, 541 (9th Cir. 2011) (holding no federal question jurisdiction based on air-ambulance rescue company's inclusion of FAA preemption argument in its complaint alleging only state law claims). That is because "[a] defense is not part of a plaintiff's properly pleaded statement of his or her claim." *Republican Party of Guam v. Gutierrez*, 277 F.3d 1086, 1089–91 (9th Cir. 2002) (internal quotation marks omitted) (finding no federal question jurisdiction in action seeking declaration that Governor of Guam violated a Guam election reform law, notwithstanding that plaintiffs had "artfully plead the Governor's probable [federal law] defense").

Here, the question of whether the Complaint contains a well-pleaded federal question is easily answered because the State could not have brought its declaratory judgment claim as an original action in federal court. "For federal question jurisdiction to extend to a declaratory judgment action, the claim itself must present a federal question unaided by anything alleged in anticipation of avoidance of defenses which it is thought the defendant may interpose." *Negrete*, 46 F.4th at 820 (quoting *Skelly Oil v. Phillips Petroleum Co.*, 339 U.S. 667, 673–74) (internal quotation marks omitted). The State asserts a single UDJA claim alleging violations of KWW, and the Complaint's only mention of federal law is the State's anticipation of Defendants' rebuttal arguments. Because the State could not have filed its KWW enforcement action in this Court, there is no basis for Defendants to remove it. *See id.* at 818 (applying *Skelly Oil* and holding no

ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206-464-7744

substantial federal question jurisdiction where terminated officers' complaint against the city anticipated that the city would defend by asserting that a federal consent decree required city to take complained of actions).

Nevertheless, Defendants claim that the State's Complaint raises a question of federal law on its face because, "whether or not Adams County has actually violated the recited state laws depends on whether or not the conduct alleged was required to comply with federal law or required to maintain federal funding, as explicitly stated in the state statutes alleged to have been violated." Notice of Removal ¶ 9. Of course, this is just another way of raising compliance with federal law as a defense to enforcement of state law, which as explained above cannot serve as a basis for removal.

Defendants' principal contention appears to be that KWW, which through its text does not compel anyone to violate state or federal law, somehow obligates the State to show, as part of its prima facie case, the absence of a conflict with *any* federal law, including federal laws that KWW does not mention. *See* Notice of Removal ¶¶ 8–10; *see also id.* ¶¶ 14–16 (identifying 8 U.S.C. § 1324 and 18 U.S.C. § 1512 as additional potential sources of conflict with KWW). But KWW's accommodation of federal law merely reflects the "'fundamental principle in our system' . . . that 'the Constitution, laws, and treaties of the United States are as much a part of the law of every State as its own local laws and Constitution.'" *Fid. Fed. Sav. & Loan Ass'n v. de la Cuesta*, 458 U.S. 141, 157 (1982) (quoting *Hauenstein v. Lynham*, 100 U.S. 483, 490 (1880)). These types

ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206-464-7744

of nods to federal law in state statutes are commonplace, and in no way turn every such state statute into a "federal question" whose interpretation may be sought in federal court. Obviously, the enforcement of state laws must comply with the Constitution and federal law. But that cannot mean that every interpretation of state law presents a federal question sufficient to confer jurisdiction in federal court.

In sum, and as Defendants' Answer makes clear, the only federal issues that may arise in this case are those that will be raised through Defendants' affirmative defenses. *See* Answer at 23–24. That is not enough to invoke the Court's limited jurisdiction. The well-pleaded complaint rule thus bars Defendants from removing the State's action to enforce state law.

B. The State's Action Does Not Raise a Substantial Federal Question Sufficient to Confer Federal Jurisdiction

Unable to overcome the well-pleaded complaint rule—and the mountain of precedent against them—Defendants assert that allegations in the Complaint preemptively addressing Defendants' federal defenses, and language in KWW disclaiming any conflict with federal law, provide indicia of a substantial federal question that arises under federal law. *See* Notice of Removal ¶¶ 11–16. This argument, too, fails.

The Supreme Court has recognized "a 'special and small category' of cases in which arising under jurisdiction still lies," notwithstanding that the "claim finds its origins in state rather than federal law." *Gunn*, 568 U.S. at 258 (quoting

ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206-464-7744

Empire Healthchoice Assurance, 547 U.S. at 699). To fit a state law claim into this "slim category," the party seeking removal must show that the federal issue at play in the state law claim is: "(1) necessarily raised, (2) actually disputed, (3) substantial, and (4) capable of resolution in federal court without disrupting the federal-state balance approved by Congress." *Id.* at 258. All four elements must be met for jurisdiction to lie. *Id.* But Defendants cannot establish at least three of these essential elements.

First, federal law issues are not "necessarily raised" by the Complaint. Such issues are only "necessarily raised" if they are an essential element of a plaintiff's claim. *Negrete*, 46 F.4th at 811. This is a high bar and federal courts find that federal issues, even if lurking, are not necessarily raised unless the state law cause of action cannot be resolved without addressing the federal issue. *See Lake*, 14 F.4th at 1007 (holding that "a federal issue is not necessarily raised where the actions are based entirely on state causes of action each of which does not, on its face, turn on a federal issue") (cleaned up); *see also Mayor & City Council of Baltimore v. BP P.L.C.*, 31 F.4th 178, 210–11 (4th Cir. 2022) (finding state law negligence claim did not raise a substantial federal issue, even though one element of state law claim could have been met by showing defendant had run afoul of federal regulatory standards; plaintiff could have also "avoid[ed] federal law entirely" and met its burden through other means). Simply put, the phrase "federal issue" is not "a password opening federal courts to any state

ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206-464-7744

action embracing a point of federal law." *Grable & Sons Metal Prods., Inc. v. Darue Eng'g & Mfg.,* 545 U.S. 308, 314 (2005).

Here, the State can obtain a declaratory judgment simply by showing that Defendants engaged in the conduct proscribed by KWW: sharing nonpublic, personal information with federal immigration authorities; holding individuals based on civil immigration detainers; allowing federal immigration officials to interview individuals in custody without obtaining consent; and failing to adopt policies that comply with KWW. Complaint ¶¶ 5.1–5.2. Federal law will surface if and only if it is raised by Defendants as an affirmative defense to their state law violations, which is precisely how this case has so far proceeded.

Second, Defendants have made clear they intend to argue that KWW conflicts with federal law, such that the issue may be "disputed" in this case. *See* Notice of Removal ¶¶ 6–16; *Gunn*, 568 U.S. at 259. Regardless, that question does not justify removal because it is insubstantial compared to "the federal system as a whole." *See Sauk-Suiattle Indian Tribe v. City of Seattle*, 56 F.4th 1179, 1185 (9th Cir. 2022) (quoting *Gunn*, 568 U.S. at 260) (internal quotation marks omitted). Although the interaction between KWW and federal law is of substantial importance within Washington, a decision on that question would have no immediate and direct consequences anywhere else in the country.

The Supreme Court's decision in *Franchise Tax Board*, is instructive. There, the Court determined that an action brought by a state, in its own courts, seeking an interpretation of its own laws, does not raise a substantial federal

ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206-464-7744

question. 463 U.S. at 21. Instead, the Court held that the California Franchise Tax Board's action for declaratory judgment and damages had to be remanded to state court, even though the federal issue in that case—whether the federal Employment Retirement Income Security Act (ERISA) allowed the California tax board to collect the disputed state income tax—was the main issue the state court would need to resolve. *Id.* at 20–21. The Supreme Court explained:

> There are good reasons why the federal courts should not entertain suits by the States to declare the validity of their regulations despite possibly conflicting federal law. States are not significantly prejudiced by an inability to come to federal court for a declaratory judgment in advance of a possible injunctive suit by a person subject to federal regulation. They have a variety of means by which they can enforce their own laws in their own courts, and they do not suffer if the preemption questions such enforcement may raise are tested there.

Id. at 21. These considerations hold particular weight where the dispute is of an "intragovernmental nature." *See Republican Party of Guam*, 277 F.3d at 1090 (finding "invocation of federal jurisdiction even less appropriate" in dispute between political party, legislature, and Governor of Guam).

The Supreme Court has explained that "the sort of substantiality" sufficient to establish federal question jurisdiction may arise where the *plaintiff* brings a claim that depends on the resolution of an important question of federal law—not the *defendant*. *See Gunn*, 568 U.S. at 260–61. In *Gunn*, the Supreme Court illustrated this point by examining two earlier cases, *Grable & Sons Metal*

ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206-464-7744

Products, Inc. v. Darue Engineering & Manufacturing, 545 U.S. 308 (2005), and *Smith v. Kansas City Title & Trust Co.,* 255 U.S. 180 (1921).

In *Grable & Sons,* 545 U.S. at 314, the Supreme Court considered whether a "substantial" federal issue was presented by a state law quiet title action alleging that the property at issue had been seized and sold by the Internal Revenue Service without observance of mandatory federal notice requirements. In light of the federal government's "direct interest in the availability of a federal forum to vindicate its own administrative action," the *Grable* Court found that the quiet title action raised "an important issue of federal law that sensibly belong[ed] in a federal court." *Id.* at 315.

Likewise, in *Kansas City Title & Trust Co.*—described by the Supreme Court "as '[t]he classic example' of a state claim arising under federal law," *Gunn*, 568 U.S. at 261—a plaintiff sued under Missouri law seeking to prevent a bank from buying federally issued farm bonds that were allegedly "beyond the constitutional power of Congress" to issue. *Kansas City Title & Trust Co.,* 255 U.S. at 195. The Court held that the state law claim arose under federal law not because it involved a federal constitutional question, but because the answer to that question would have nationwide importance for all holders of the federal Government-issued securities. *Id.* at 201–02.

The State's action here is "poles apart" from these examples because a determination by a Washington state court regarding the interplay of KWW and Defendants' various federal defenses will not "undermine the development of a

ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206-464-7744

uniform body" of federal immigration or criminal law—even if Defendants were correct that KWW violates the Supremacy Clause or somehow conflicts with federal criminal laws. *See Gunn*, 568 U.S. at 261–62 (quoting *Empire Healthchoice Assurance*, 547 U.S. at 700) (internal quotation marks omitted). The Supreme Court has recognized that state courts are more than capable of interpreting and applying federal law and do so regularly, including federal criminal law. *See id*. at 262 (citing *Tafflin v. Levitt*, 493 U.S. 455, 465 (1990) ("State courts adjudicating civil RICO claims will . . . be guided by federal court interpretations of the relevant federal criminal statutes, just as federal courts sitting in diversity are guided by state court interpretations of state law . . . . State court judgments misinterpreting federal criminal law would, of course, also be subject to direct review by this Court.")); *see also Arizona*, 567 U.S. at 415 (finding it "inappropriate to assume" that, left in the hands of state courts, a state law would "be construed in a way that creates a conflict with federal law").

Indeed, Washington courts have ample federal precedent to look to, as nearly all of the issues Defendants will likely raise have already been rejected by the Ninth Circuit. *See City & County of San Francisco v. Barr*, 965 F.3d 753, 763 (9th Cir. 2020) (holding 8 U.S.C. § 1373 does not require law enforcement to collect or share information with federal immigration authorities outside of discrete citizenship or immigration status information); *City & County of San Francisco v. Garland*, 42 F.4th 1078, 1085 (9th Cir. 2022) (discussing multiple cases holding same); *United States v. California*, 921 F.3d 865, 887 (9th Cir.

ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206-464-7744

2019), *cert denied* 141 S. Ct. 124 (2020) (holding that California law prohibiting law enforcement from honoring non-judicial immigration detainers "does not directly conflict with any obligations that the INA or other federal statutes impose on state or local governments, because federal law does not actually mandate any state action" except as to the sharing of citizenship and immigration status information).

Finally, whether KWW conflicts with federal law or otherwise violates the Supremacy Clause is not "capable of resolution in federal court without disrupting the federal-state balance approved by Congress," which requires courts to consider the appropriate balance of federal and state judicial responsibilities. *Gunn*, 568 U.S. at 264. KWW has not previously been construed by any court and Defendants' approach will deprive Washington courts of the first opportunity to do so, leaving this Court with "a basic uncertainty about what the law means." *See Arizona*, 567 U.S. at 415. Beyond that practical difficulty, allowing removal of this case will put the Court squarely in the middle of an intragovernmental dispute regarding application of state law, which is an area upon which the federal courts ought not to tread. *See Republican Party of Guam*, 277 F.3d at 1090. Removal is simply not available here, and the Court should remand the State's case to state court, where it belongs.

ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206-464-7744

C. The Court Should Award the State Its Fees and Costs Incurred Because of Defendants' Unreasonable Removal

Under 28 U.S.C. § 1447(c), this Court may award costs and attorney fees "where the removing party lacked an objectively reasonable basis for seeking removal." *Martin v. Franklin Cap. Corp.*, 546 U.S. 132, 141 (2005); s*ee also Caskey v. Shriners Hosps. for Child.*, No. 2:16-CV-00169-SAB, 2016 WL 4367250, at *4–5 (E.D. Wash. Aug. 15, 2016) (awarding attorney fees and costs where defendants' bases for removal were not objectively reasonable because plaintiff's discussion of federal law in his complaint did not confer federal question jurisdiction under *Grable*). There is substantial, controlling precedent foreclosing Defendants' asserted bases for federal question jurisdiction. Defendants' removal of this case was objectively unreasonable, and the Court should order Defendants to pay the State's attorney fees and costs incurred in connection with this motion.

IV. CONCLUSION

For the foregoing reasons, the Court should remand and award the State attorney fees and costs under 28 U.S.C. § 1447(c).

DATED this 15th day of April, 2025.

ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206-464-7744

Respectfully Submitted,

NICHOLAS W. BROWN
Attorney General of Washington

EMILY C. NELSON, WSBA #48440
BENJAMIN SEEL, WSBA #61165
Assistant Attorneys General
Wing Luke Civil Rights Division
Office of the Attorney General
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
(206) 342-7744
emily.nelson@atg.wa.gov
benjamin.seel@atg.wa.gov

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was electronically filed with the United States District Court using the CM/ECF system. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

DATED this 15th day of April, 2025.

LOGAN YOUNG
Paralegal

ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206-464-7744